

WHAT YOU DON'T KNOW COULD LAND YOU IN JAIL!

Arthur ("Art") Pertile, III
PARTNER

OLSON & OLSON ^{LLP}

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Ethics

- Charter
- Ordinance
- Resolution adopting a Personnel Manual

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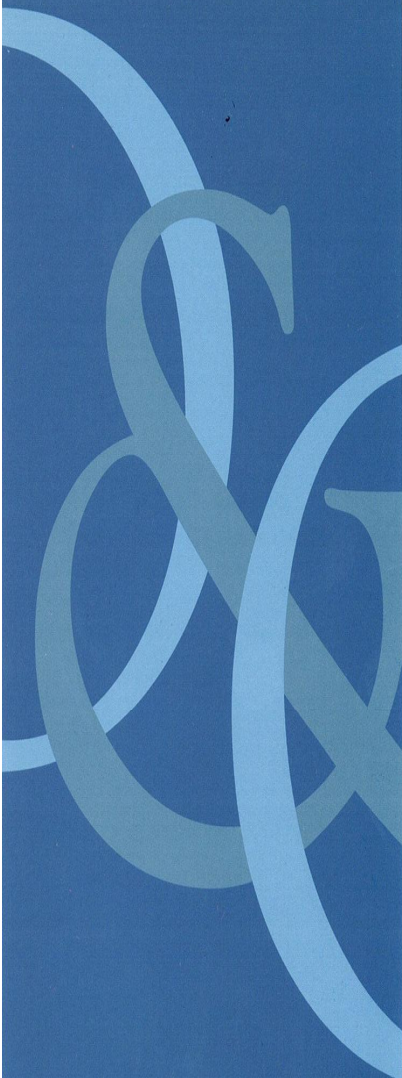
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Violation of Ethics Ordinance

- Fines
- Written Reprimand
- Removal from Office

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- 
- City Attorney Phone Number
 - Opinion in Writing
 - E-mail
 - Text Message

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- You Are Not The Client
- Attorney's Duty Is Owed To The City, Not The Elected Officials



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Licensed Professionals as City Officials

- Attorneys
- Accountants
- Architects
- Doctors
- Engineers
- Plumbers

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- 
- Texas Ethics Commission
 - 512-463-5800
 - Campaign finances
 - Political advertising
 - Advisory opinions
 - Bribery
 - Prohibited Gift
 - Honorarium

512-463-5800

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Bribery

- Prohibited from receiving any benefit or consideration for a decision, opinion, recommendation, or other exercise of discretion
 - Refuse anything that has a monetary value
 - List as Campaign Contribution

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Bribery

- Prohibited from receiving gift or benefit for superior public service
 - Refuse anything that has a monetary value
 - List as Campaign Contribution

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Bribery

- Second Degree Felony
 - 2 to 20 years
 - Up to \$10,000



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Coercion Of Public Servant

- Prohibited from compelling threatening or forcing a public servant to perform his/her official duty, or a specific performance of his/her duty or influence them to violate their duty.
 - City Council Deliberations Excluded.

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Coercion Of Public Servant

- Class A Misdemeanor
 - Up to 1 year in Jail
 - Up to \$4,000
 - Both
- Third Degree Felony
 - 2 to 10 years
 - Up to \$10,000
 - Both



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Improper Influence

- Prohibited from privately communicating, with the intent to influence the outcome, a public servant in an adjudicatory proceeding.
 - Municipal Court Judge
 - Municipal Court Prosecutor

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Improper Influence

- Class A Misdemeanor
 - Up to 1 year in Jail
 - Up to \$4,000
 - Both



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Acceptance of Honorarium

- Prohibited from accepting an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties

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Acceptance of Honorarium

- Meals in connection with an event
- Transportation and lodging when speaking or attending a seminar
- Refuse anything that has a monetary value
- List as Campaign Contribution

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Honorariums

- Class A Misdemeanor
 - Up to 1 year in Jail
 - Up to \$4,000
 - Both

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Gift To Public Servant

- Prohibited from receiving benefit from a person subject to regulation, inspection, or investigation by the City

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Exceptions

- Items with a value of \$50 or less, excluding cash and checks
- Gifts from close family and friends, if relationship is independent from your position

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Exceptions

- Gifts from people that you have an independent business relationship with not related to your position
- Payment of expenses in the performance of your official duties
- Political contributions
- Donation of an unsolicited gift to a tax-exempt charitable organization

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- Refuse anything that has a monetary value
- List as Campaign Contribution

TEXAS ETHICS COMMISSION
512-463-5800

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Gift to Public Servant

- Class A Misdemeanor
 - Up to 1 year in Jail
 - Up to \$4,000
 - Both



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Abuse of Official Capacity

- Prohibited from, with the intent to obtain a benefit or harm another, violating a law relating to their position or misusing government property, services, personnel, or any other thing of value

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Abuse of Official Capacity

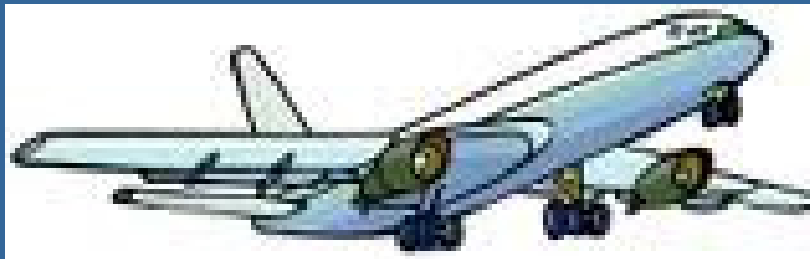
- Paying City employees less than market value to perform private work for official on employee's own time
- Using City employees to perform private work during business hours
- Reimbursing City employees for the private use of equipment or personnel

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Exception

- Discounts or awards given for travel, such as frequent flyer miles, car rentals, hotel discounts, and food coupons



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Abuse of Official Capacity

- Class C Misdemeanor
 - Fine up to \$500
- First Degree Felony
 - 5 to 99 years or Life
 - Up to \$10,000
 - Both



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Official Oppression

- Prohibited from intentionally subjecting someone to sexual harassment



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Official Oppression

- Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly

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Official Oppression

- Class A Misdemeanor
 - Up to 1 year in Jail
 - Up to \$4,000
 - Both



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Misuse of Official Information

- Prohibited from acquiring an interest in property, deal, or business based on information that has not been made public
- Prohibited from using information that has not been made public for a nongovernmental purpose

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- “Information Not Made Public” is information not generally accessible to the public and is prohibited from disclosure by the Texas Public Information Act



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Misuse of Official Information Official Capacity

- Third Degree Felony
 - 2 to 10 years
 - Up to \$10,000
 - Both



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Conflict of Interest

- Must file an affidavit of Substantial Interest with City Secretary before any action is taken on a matter that the official has a substantial interest in
- Affidavit must be filed before any vote or decision
- Affidavit must state the nature and extent of the interest

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Conflict of Interest

- Cannot participate in the discussion or the vote on the matter
- “Substantial Interest” in real property is an interest in real property worth at least \$2,500



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Substantial Interest

- Substantial Interest in business entity is:
 - at least 10% of the voting stock in a business; or
 - ownership of at least 10% of \$15,000 of the fair market value of a business; or
 - received 10% of their gross income for the previous year from a business

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- Affidavit is required if spouse, child, mother, father, mother-in-law, or father-in-law has a Substantial Interest in real property or a business entity
- The action by the City Council must have a special economic effect on the business or property that is different than the effect it is having on other businesses or properties

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- Councilmember can vote on a Budget if items where there is a conflict are voted on separately

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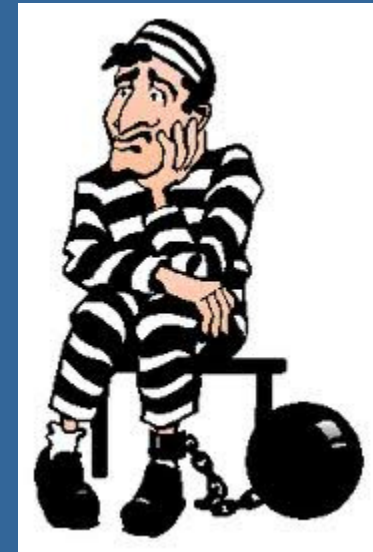
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VOTE

CONFLICT OF INTEREST

- Class A Misdemeanor
 - Up to 1 year in Jail
 - Up to \$4,000
 - Both



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Conflicts Disclosure Statement

- Must file disclosure statement if City is going to enter into a contract with a person that has an employment or business relationship with a Councilmember or his/her spouse or child that resulted in the Councilmember or his/her spouse or child receiving more than \$2,500 in the previous 12-month period

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Conflicts Disclosure Statement

- Must file disclosure if City is going to enter into a contract with a person that has given the Councilmember or the Councilmember's spouse or child gifts that total more than \$250 in the previous 12 months

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Exceptions

- Gifts from family members
- Food, lodging, transportation, or entertainment as a guest
- Political contributions
- File the disclosure statement within 7 business days after being notified by the City of a violation

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Conflicts Disclosure Statement

- Class C Misdemeanor
 - Up to \$500



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Nepotism

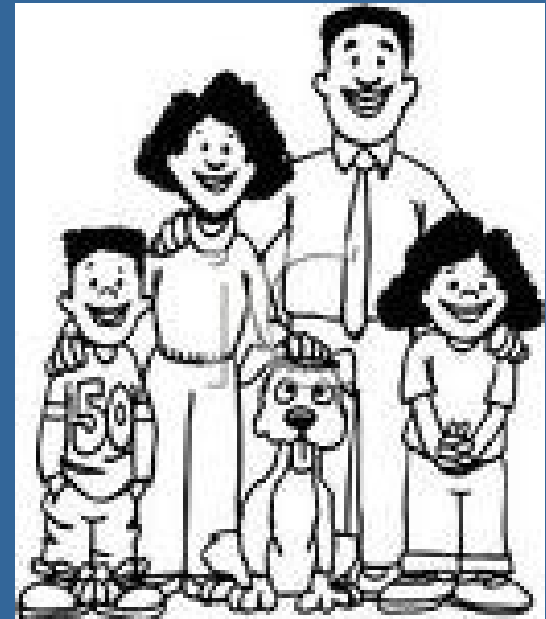
- Prohibited from appointing or voting for appointment to positions paid for with public funds:
 - Great Grandparents
 - Grandparents, Spouse's Grandparents
 - Parents, Spouse's Parents
 - Children
 - Siblings, Spouse's Siblings
 - Grandchildren

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Nepotism

- Great Grandchild
- Uncle
- Aunt
- Niece
- Nephew



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Exceptions

- Appointments in a City with less than 200 persons
- Individuals employed with the City for 30 days prior to Councilmember being appointed to the position (Preempts City Charters and Ordinances)
- Individuals employed with the City for 6 months prior to the Councilmember being elected (Preempts City Charters and Ordinances)

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Nepotism

- Class C Misdemeanor
 - Not less than \$100 and not more than \$1000
 - Removal from office



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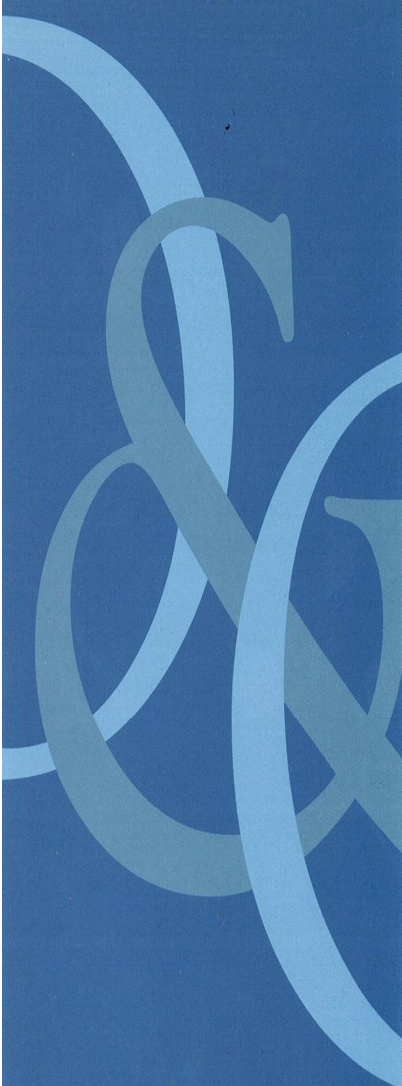
ARTHUR (ART) L. PERTILE, III

Art is a partner with Olson & Olson L.L.P., a Houston law firm that serves cities, counties, special districts, other local governmental entities, and public officials across the State of Texas as general counsel, and in the areas of litigation and special projects. He served as City Attorney for Waco, Texas for almost twelve years and currently serves as City Attorney for the cities of Stafford, Hempstead and Katy, Texas, and as corporate counsel for the Brookshire and Stafford Economic Development Corporations. He is a past President of the Texas City Attorneys Association and now serves as a member of the Board of Directors of the Government Lawyers Section of the Texas State Bar, as a Commissioner on the Texas Commission on Fire Protection, and is the Texas State Chair for the International Municipal Lawyers Association. Art also serves as a board member of the Waco Tigers charitable organization. He is a former member of the Board of Directors of the Waco Foundation, Waco Parents for Public Schools, Texas Sports Hall of Fame, the YMCA of Central Texas, and the McLennan County Bar Association. He is a National Youth Sport Coaches Association certified youth basketball coach. Art is married to Renita D. King and they have one child, Arthur L. Pertile, IV. He is a member of Antioch Missionary Baptist Church of Waco, Texas and attends Current Christian Church of Katy, Texas.



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Art is a graduate of McMurry University in Abilene, Texas and the University of Texas at Austin Law School. He began his legal career as an Assistant City Attorney with the Waco City Attorney's Office. Art served as an Assistant District Attorney with the Harris County District Attorney's Office in Houston, Texas. He later worked as an Assistant City Attorney with the Houston City Attorney's Office. In April of 1995, Art became First Assistant City Attorney for the City of Waco. He was appointed City Attorney for the City of Waco in February of 1996 where he served until his retirement in November of 2007.

Art is licensed to practice in the Texas state courts, the United States District Courts for the Southern, Eastern and Western Districts of Texas, the United States Fifth Circuit Court of Appeals, and the United States Supreme Court. He is rated BV, high to very high legal ability, by the Martindale-Hubbell rating services. Art is a member of the Texas State Bar, American Bar Association, Bar Association of the Fifth Federal Circuit, Texas City Attorneys Association, International Municipal Lawyers Association, Houston Bar Association and the Texas District and County Attorneys Association.

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